Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Allocation of Costs Associated With	)	CC Docket No. 96-112
Local Exchange Carrier Provision of	)	
Video Programming Services	)	

MOTION FOR EXTENSION OF TIME

The United States Telephone Association ("USTA") respectfully petitions for an extension of time in which to file comments on the Notice of Proposed Rulemaking ("Notice") in this proceeding released on May 10, 1996. The current deadline for filing comments is May 28, 1996, and the current deadline for replies is June 7, 1996. USTA seeks an extension of time to file comments until June 10, 1996, and reply comments until July1, 1996. USTA is the principal trade association for the local exchange carrier industry with over 1,000 members.

The Commission did not release the Notice until after 4:30 p.m. on Friday, May 10, and most of USTA's members did not receive the Notice until Monday, May 13. Late release of the Notice effectively shortened the pleading cycle by three days. In addition, the Memorial Day Holiday falls the day before the comments are currently due, which shortens the pleading cycle by another day. As a practical matter, the Commission has allowed only fourteen days for the preparation and filing of comments.

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Fourteen days is not an adequate amount of time for USTA and its members to prepare and file comments in this proceeding. It would be extremely difficult to file meaningful comments on any proceeding in that amount of time, let alone one as complicated and far-reaching as this. The Notice seeks comment on at least 49 issues and proposals (see Exhibit A). The vast majority of these issues and proposals go far beyond LEC provision of video services; all nonregulated services that LECs may offer in the future are implicated.[1] More time is needed to develop a full record on these issues.

There is no reason for the Commission to impose such unrealistic deadlines. This proceeding is not mandated by the Telecommunications Act of 1996. Although the Commission must prescribe rules for Open Video Systems (OVS) by August 8, 1996, Congress was very specific about the areas in which rules were needed: cost allocation was not one of them.[2] The Commission appears to believe that the Section 254(k) prohibition against cross-subsidization mandates this proceeding.[3] On the contrary, the Section 254(k) mandate to establish cost accounting rules, accounting safeguards and guidelines applies only with respect to *interstate* services, and only to "ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of

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[1] *See, e.g.*, Notice at ¶ 2 ("[t]he basic problem addressed in this proceeding is how to allocate common costs between the nonregulated offerings that will be introduced by incumbent local exchange carriers and the regulated services they already offer").

[2] Telecommunications Act of 1996 sec. 302, 653 (b)(1)

[3] Notice at ¶ 22.

facilities used to provide those services."[4] There simply is no mandate or statutorily-imposed deadline for the establishment of cost allocation rules for LEC offerings of video programming services or any other nonregulated service.

It is fundamentally unfair to bootstrap wholesale reform of Part 64 into the OVS docket, and then give interested parties who will be directly impacted by the Commission's decisions only 14 days to respond. Section 4 of the Administrative Procedure Act requires the Commission "to give interested persons an opportunity to participate in the rule making."[5] The Commission's own rules further specify that "[a] *reasonable* time will be provided for comments and replies.[6] Because of the complexity and breadth of this proceeding, the time limits set forth in the NPRM are so unreasonable as to deny interested parties their due process right to participate in a meaningful manner. In addition, because of the anticipated large volume of comments expected to be filed, an extension of time to file reply comments on July 1 is reasonable to afford the parties the opportunity to thoroughly respond to comments.

Wherefore, USTA respectfully requests an extension of time to file comments on June 10 and reply comments on July 1 to permit USTA, its members, and interested parties an adequate opportunity to participate in a meaningful manner in this proceeding.

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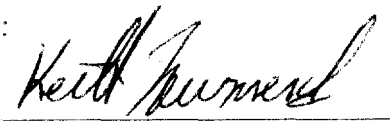
[4] Telecommunications Act of 1996 sec. 101(a), §254(k).

[5] 5 U.S.C. § 553(c).

[6] 47 C.F.R. §§ 1.415(c), (d) (emphasis added).

Respectfully submitted,
United States Telephone Association

By: 

Mary McDermott
Linda Kent
Charles D. Cosson
Keith Townsend

1401 H Street, NW
Suite 600
Washington, D.C. 20005
(202) 326-7371

Its Attorneys

EXHIBIT A

ISSUES RAISED IN CC DOCKET No. 96-112

1. whether and how the procedures established in this proceeding should be applied to LEC provision of other competitive offerings (¶ 2)

2. how changes in usage over time should affect cost allocation between regulated and nonregulated activities (*id.*)

3. whether it is appropriate to allocate a significant part of common costs to nonregulated services (¶23)

4. whether the Commission should consider additional goals besides those described in paragraph 22 (¶ 26)

5. how can the Commission ensure that telephone ratepayers are protected by Commission processes for allocating costs between regulated and nonregulated activities (*id.*)

6. whether the Commission should prescribe specific cost pools and allocation factors for allocating video programming and other nonregulated service costs (¶ 27)

7. whether the Commission should prescribe specific rules for the allocation of video programming service costs or whether general guidelines would suffice (*id*)

8. how should the Commission treat the costs of providing other nonregulated services vis a vis cost pools and allocation factors (*id.*)

9. to what extent direct assignment can be used to allocate the costs of loop plant used for services subject to regulation under Title II and video programming and other competitive services between regulated and nonregulated activities (¶ 28)

10. which loop costs, if any, incurred in the provision of competitive services such as OVS can be directly assigned to nonregulated activities (¶29)

11. whether circuit equipment costs are closely related to the relative use of the total circuit capacity created by that equipment (¶ 32)

12. whether differences in the usage characteristics of video programming services (and other high-capacity services that may be subject to competition) and voice-grade services could cause prescribed factors that would be based on usage measurements to produce results inconsistent with the goals of the 1996 Act and the Commission's Part 64 guidelines (¶ 33)

13. whether it would be appropriate to allocate loop costs by developing a ratio that reflects the extent to which associated loop plant is directly assigned to regulated or nonregulated activities, and apply that ratio to loop plant categories of common costs (¶ 34)

14. whether the amount of loop plant that would be directly assigned under the method described above would be so small as to result in unreasonable allocation results or opportunities for manipulation (*id.*)

15. whether it would be reasonable to establish a cost allocation ceiling based on the costs of the current stand-alone telephone system, thus capping the amount of costs an incumbent LEC can assign to regulated activities (¶35)

16. whether the costs for hybrid systems described above could be recorded on an exchange-by-exchange basis (¶36)

17. whether the Commission should define the cost allocation ceiling, for price cap regulated companies, each year, by applying a modified price cap formula to total cost per loop, i.e. adjust the past-year total cost per loop by adding the inflation factor and subtracting the company's productivity factor (*id.*)

18. whether the Commission should prescribe a fixed factor (e.g. 50 percent) for allocating loop plant common costs between regulated and nonregulated activities (¶ 39)

19. whether the Commission should prescribe a fixed factor for allocating loop plant common costs between regulated and nonregulated activities (¶ 40)

20. whether relative demand cannot form the basis for allocating common loop costs between regulated and nonregulated services (¶ 41)

21. whether a cost-causative approach is not possible for loop plant (¶¶ 41-42)

22. what is the basis for determining fixed allocation factors, and what legal authority supports a given factor (¶ 42)

23. whether the Commission should continue to require incumbent LECs to allocate switching costs between regulated and unregulated activities based on relative usage (i.e. call duration) (¶ 44)

24. whether or to what degree the duration of a call is, or will continue to be a valid usage measurement (*id.*)

25. whether the duration of a call is a reasonable basis for allocating the costs of packet switches between regulated and nonregulated activities (*id.*)

26. whether specific usage-based allocations should be used to separate the switch costs allocated to regulated and nonregulated activities (*id.*)

27. explain the mechanics of usage measurement and how the Commission might evaluate the accuracy of carrier measurements (*id.*)

28. whether the Commission should prescribe specific allocation methods to accommodate the use of interoffice transmission facilities to provide nonregulated services (¶46)

29. whether the Commission's rules should distinguish between loops and interoffice trunks for Part 64 cost allocation purposes (*id.*)

30. whether to allocate interoffice trunk costs based on a fixed factor, like loops (*id.*)

31. what allocation methods for interoffice trunks would be most consistent with the goals of the 1996 Act (*id.*)

32. whether network-related expenses should be allocated based on the network plant allocation (¶ 47)

33. whether maintenance expenses should be allocated using the same factor used to allocate the maintained plant itself (¶ 48)

34. whether marketing expenses that cannot be directly assigned or directly or indirectly attributed should continue to be allocated based on the allocation between regulated and nonregulated activities of those marketing costs that can be directly assigned or directly or indirectly attributed (¶ 49)

35. whether the current approach to allocating overhead expenses should be retained (¶50)

36. how should spare facility costs (or reserve capacity) be allocated between regulated and nonregulated activities (¶¶ 51-54)

37. whether the Commission should establish separate cost pools for the costs associated with spare facilities (¶ 53)

38. to what extent should ratepayers pay for network improvements that incumbent LECs make in anticipation of future competition in their core markets (¶ 54)

39. which types of plant currently allocated to regulated activities might be used to provide competitive offerings (*id.*)

40. what amounts and types of plant currently allocated to regulated activities might be readily adaptable for use in providing competitive services (*id.*)

41. how should the pole attachment rules (Section 224(g) of 1996 Act) affect rules for allocating outside plant costs between regulated and nonregulated activities (¶ 55)

42. whether any of the three approaches proposed in paragraph 56 would be consistent with the language of and Congressional intent behind Section 224(g), and with the Commission's goals and purposes, and with the criteria set forth in paragraph 2 (¶ 56)

43. whether amounts reallocated from regulated to nonregulated activities should be presumed to be exogenous, and if so, whether all such reallocations to nonregulated activities that may result from the offering of competitive services should trigger decreases in related price cap indices (¶60)

44. "We also seek comment with respect to each of the allocation methodologies described above on the effect of Part 64 exogenous changes on the incentives for price cap carriers to enter video and other competitive, nonregulated service markets." (*id.*)

45. whether there is a need for Part 64 processes in the Commission's regulation of price cap carriers that are not subject to sharing obligations (¶62)

46. how the relationship of the Commission's cost allocation rules to price cap companies should influence the outcome of this proceeding (*id.*)

47. whether the fact that the states have not uniformly adopted the same price cap model should influence any conclusion the Commission reaches on the continuing need for Part 64 rules (*id.*)

48. whether there are conditions under which the Part 64 cost allocation rules will not be necessary (¶ 63)

49. whether some form of cost allocation should be required as long as services are offered that are not subject to competition (note: parties instructed to address statutory and legal requirements placed on both the Commission and on companies to allocate costs between regulated and nonregulated activities) (*id.*)